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**Notice of Allowability**

Application No.

10/725,483

Applicant(s)

FUKUI, YOSHIHITO

Examiner

Jessica L. Reidel

Art Unit

3766

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's Amendment of 05/15/2006 with RCE of 06/14/2006.
2. ☒ The allowed claim(s) is/are 1,3-10 and 20-25.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Matthew Schneider on June 28, 2006.

The application has been amended as follows:

In Claim 1, line 17, immediately after "or no nerve stimulation is performed", "." was deleted and -- , wherein said controller comprises a nerve stimulation parameter table memory at which is memorized at least one table relating a plurality of nerve stimulation parameters to the intensity sensed by said sensor, said controller controlling said nerve stimulator based the nerve stimulation parameters selected from the nerve stimulation parameter table memory. -- was inserted.

In Claim 3, line 2, immediately after "1", "wherein said controller comprises a nerve stimulation parameter table memory at which is memorized at least one table relating to a plurality of nerve stimulation parameters to sensed values by said sensor, said controller controlling said nerve stimulator based on control of the nerve stimulation parameters selected from the nerve stimulation parameter table memory; and" was deleted.

In Claim 9, line 2, immediately after "wherein said sensor senses a blood", "." was deleted and -- parameter. -- was inserted.

In Claim 20, line 5, immediately after “intensity of physical exercise or mental stress”, -- , -- was inserted.

In Claim 20, line 6, “; and” was deleted and -- wherein said nerve stimulation parameter table relates the variable parameter to the sensed intensity; and -- was inserted.

In Claim 22, line 3, immediately after “sensed information of a signal that”, “relies on an” was deleted and -- indicates -- was inserted.

In Claim 22, line 3, immediately after “autonomic”, “nerve” was deleted and -- nervous -- was inserted.

#### **ALLOWABLE SUBJECT MATTER**

2. Claims 1, 3-10 and 20-25 are allowed.

3. The following is an examiner’s statement of reasons for allowance: the prior art of record fails to disclose a heart treatment equipment or method which controls vagal nerve stimulation based upon sensed intensities of physical exercise or mental stress such that when the intensity of the physical exercise or the metal stress is relatively high, a relatively strong nerve stimulation is performed and when the intensity of physical exercise or the mental stress is relatively low, a relatively weak nerve stimulation is performed or no nerve stimulation is performed wherein a controller comprises a nerve stimulation parameter table memory at which is memorized at least one table relating a plurality of nerve stimulation parameters to the intensity sensed by a sensor, the controller controlling the nerve stimulation based nerve stimulation parameters selected from the nerve stimulation parameter table memory.

Terry, Jr. et al. (WO 93/02744) discloses treatment of anxiety disorders by nerve stimulation such that when an intensity of mental stress is relatively low, no stimulation is performed and when an intensity of mental stress is relatively high, nerve stimulation is performed. Terry, Jr. et al. fails to disclose, however, the use of a parameter table at which is memorized at least one table relating a plurality of nerve stimulation parameters to the intensity sensed by a sensor. In summary, Terry, Jr. et al. discloses nerve stimulation that is either on (intensity of mental stress is relatively high) or off (intensity of mental stress is relatively low) (see Terry, Jr. et al. Abstract, page 1, page 4, lines 32-37, page 5, page 6, lines 4-11, page 7, lines 6-12, pages 9-15).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica L. Reidel whose telephone number is (571) 272-2129.

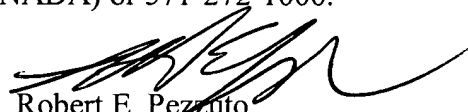
The examiner can normally be reached on Mon-Thurs 8:00-5:30, every other Fri 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jessica L. Reidel 06/28/06  
Examiner  
Art Unit 3766

  
Robert E. Pezzuto  
Supervisory Patent Examiner  
Art Unit 3766